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TO: Appeal Brief - Patents - United States Patent and Trademark Office

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FROM: Diane Robinson (Typed or printed name of person signing Certificate)

Fax No. 513-634-6108

Phone No. 513-634-2477

Application No.: 09/715,586

Inventor(s): Peter W. Hamilton, et al.

Filed: November 17, 2000

Docket No.: 5922R2C

Confirmation No.: 5737

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CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. §1.8

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- 1) Appeal Brief (10 pages)
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PTO/SB/17 (1-06)


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FEE TRANSMITTAL for FY 2006 Patent fees are subject to annual revision. Effective December 8, 2004	Complete if Known	
	Application Number	09/715,586
	Confirmation Number	5737
	Filing Date	November 17, 2000
	First Named Inventor	Peter W. Hamilton, et al.
	Examiner Name	V. S. Chang
	Art Unit	1771
TOTAL AMOUNT OF PAYMENT (\$500.00)		Attorney Docket No. 5922R2C

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METHOD OF PAYMENT		FEE CALCULATION (continued)																															
1. [X] The Director is hereby authorized to charge indicated fees submitted on this form, credit any over payments, and charge any additional fee(s) during the pendency of this application to: Deposit Account Number: 16-2480 Deposit Account Name: The Procter & Gamble Company		5. ADDITIONAL FEES <table border="1"> <thead> <tr> <th>Fee Description</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>Extension for reply within 1st month</td> <td>(\$120) <input type="checkbox"/></td> </tr> <tr> <td>Extension for reply within 2nd month</td> <td>(\$450) <input type="checkbox"/></td> </tr> <tr> <td>Extension for reply within 3rd month</td> <td>(\$1,020) <input type="checkbox"/></td> </tr> <tr> <td>Extension for reply within 4th month</td> <td>(\$1,590) <input type="checkbox"/></td> </tr> <tr> <td>Extension for reply within 5th month</td> <td>(\$2,160) <input type="checkbox"/></td> </tr> <tr> <td>Information Disclosure Statement fee</td> <td>(\$180) <input type="checkbox"/></td> </tr> <tr> <td>37 CFR 1.16(f) Late Oath/Declaration (nonprovisional)</td> <td>(\$130) <input type="checkbox"/></td> </tr> <tr> <td>37 CFR 1.17 (q) Surcharge - Late provisional filing fee or cover sheet</td> <td>(\$50) <input type="checkbox"/></td> </tr> <tr> <td>Non-English specification</td> <td>(\$130) <input type="checkbox"/></td> </tr> <tr> <td>Notice of Appeal</td> <td>(\$500) <input type="checkbox"/></td> </tr> <tr> <td>Filing a brief in support of an appeal</td> <td>(\$500) [X]</td> </tr> <tr> <td>Request for oral hearing</td> <td>(\$1,000) <input type="checkbox"/></td> </tr> <tr> <td>Acceptance of unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365 (a) or (c)</td> <td>(\$1,370) <input type="checkbox"/></td> </tr> <tr> <td>Other:</td> <td><input type="checkbox"/></td> </tr> </tbody> </table>		Fee Description	Fee Paid	Extension for reply within 1 st month	(\$120) <input type="checkbox"/>	Extension for reply within 2 nd month	(\$450) <input type="checkbox"/>	Extension for reply within 3 rd month	(\$1,020) <input type="checkbox"/>	Extension for reply within 4 th month	(\$1,590) <input type="checkbox"/>	Extension for reply within 5 th month	(\$2,160) <input type="checkbox"/>	Information Disclosure Statement fee	(\$180) <input type="checkbox"/>	37 CFR 1.16(f) Late Oath/Declaration (nonprovisional)	(\$130) <input type="checkbox"/>	37 CFR 1.17 (q) Surcharge - Late provisional filing fee or cover sheet	(\$50) <input type="checkbox"/>	Non-English specification	(\$130) <input type="checkbox"/>	Notice of Appeal	(\$500) <input type="checkbox"/>	Filing a brief in support of an appeal	(\$500) [X]	Request for oral hearing	(\$1,000) <input type="checkbox"/>	Acceptance of unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365 (a) or (c)	(\$1,370) <input type="checkbox"/>	Other:	<input type="checkbox"/>
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FEE CALCULATION 2. BASIC FILING FEE - Large Entity <table border="1"> <thead> <tr> <th></th> <th>FILING FEE</th> <th>SEARCH FEE</th> <th>EXAMINATION FEE</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>Application Type</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Utility</td> <td>(\$300)</td> <td>(\$500)</td> <td>(\$200)</td> <td>(Total = \$1000) <input type="checkbox"/></td> </tr> <tr> <td>Design</td> <td>(\$200)</td> <td>(\$100)</td> <td>(\$130)</td> <td>(Total = \$430) <input type="checkbox"/></td> </tr> <tr> <td>Reissue</td> <td>(\$300)</td> <td>(\$500)</td> <td>(\$600)</td> <td>(Total = \$1400) <input type="checkbox"/></td> </tr> <tr> <td>Provisional filing fee</td> <td></td> <td></td> <td></td> <td>(Total = \$200) <input type="checkbox"/></td> </tr> </tbody> </table>			FILING FEE	SEARCH FEE	EXAMINATION FEE	Fee Paid	Application Type					Utility	(\$300)	(\$500)	(\$200)	(Total = \$1000) <input type="checkbox"/>	Design	(\$200)	(\$100)	(\$130)	(Total = \$430) <input type="checkbox"/>	Reissue	(\$300)	(\$500)	(\$600)	(Total = \$1400) <input type="checkbox"/>	Provisional filing fee				(Total = \$200) <input type="checkbox"/>	SUBTOTAL (5) (\$500.00)	
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3. APPLICATION SIZE FEE: Sheets of Spec and Drawings <input type="checkbox"/> (\$250 for each 50 sheets in excess of 100, except for sequence and program listings) SUBTOTAL (2)+(3) (\$0)		SUBTOTAL (4) (\$0)																															
4. EXTRA CLAIM FEES FOR UTILITY AND REISSUE: <table border="1"> <thead> <tr> <th></th> <th>Extra Claims</th> <th>Fee from Below</th> <th>Fee Paid</th> </tr> </thead> <tbody> <tr> <td>Total Claims</td> <td>[] - 20** = [] x</td> <td>[] =</td> <td>[]</td> </tr> <tr> <td>Independent Claims</td> <td>[] - 3** = [] x</td> <td>[] =</td> <td>[]</td> </tr> <tr> <td>Multiple Dependent claims:</td> <td></td> <td>[] =</td> <td>[]</td> </tr> </tbody> </table> ** or number previously paid, if greater; For Reissues, see below Fee Description Claims in excess of 20 (\$50 per claim) Independent claims in excess of 3 (\$200 per claim) Multiple dependent claim, if not paid (\$360) **Reissue: each independent claim over 3 and more than in the original patent (\$200 per claim) **Reissue claims: each claim over 20 and more than original patent (\$50 per claim) SUBTOTAL (4) (\$0)			Extra Claims	Fee from Below	Fee Paid	Total Claims	[] - 20** = [] x	[] =	[]	Independent Claims	[] - 3** = [] x	[] =	[]	Multiple Dependent claims:		[] =	[]	SUBTOTAL (5) (\$500.00)															
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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	David K. Mattheis	Registration No. (Attorney/Agent)	48,683
Signature		Telephone	(513) 634-9359
		Date	April 13, 2006

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CENTRAL FAX CENTER****APR 13 2006****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 09/715,586
Inventor(s) : Peter W. Hamilton, et al.
Filed : November 17, 2000
Art Unit : 1771
Examiner : V. S. Chang
Docket No. : 5922R2C
Confirmation No. : 5737
Customer No. : 27752
Title : IMPROVED STORAGE WRAP MATERIAL

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir,

This Brief is filed pursuant to the appeal from the U.S. Patent and Trademark Office decision dated November 16, 2006. A timely Notice of Appeal was filed on February 16, 2006.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103, and 105-108 are rejected.

The rejection of claims 1, 9-12, 14-18, 41, 47-52, 54-58, 66, 81, 95, 97-103, and 105-108 is appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

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STATUS OF AMENDMENTS

No amendment was filed.

SUMMARY OF CLAIMED SUBJECT MATTER

According to independent claim 41, the invention comprises a storage wrap material. The material comprises a sheet of non-porous material having a first side and a second side. The first side comprises an active side which exhibits an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to activation by a user. The active side further comprises an adhesive disposed continuously thereon. The material is linerless, such that activation of the active side requires no removal of components of the material. The active side is activatable by a tensile force. The material is sufficiently flexible to conform readily to a desired surface and has sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause the material to break contact with the desired surface.

According to independent claim 95, the invention comprises a storage wrap material. The material comprises a sheet of non-porous material having a first side and a second side. Substantially all of the first side comprises an active side which exhibits an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to activation by a user. The active side further comprises an adhesive disposed continuously thereon. The material is linerless, such that activation of the active side requires no removal of components of the material. The active side is activatable by a tensile force. The material is sufficiently flexible to conform readily to a desired surface and has sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause the material to break contact with the desired surface.

GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

1. The rejection of claims 1, 9-11, 14-18-11, 14-18, 41-51, 54-58, 66, 81, 95-99, and 101-107 under 35 U.S.C. §103(a) over Wilbur, U.S. Patent No. 2,338,749 in view of Reed, et al., U.S. Patent No. 4,054,697, and further in view of the admitted prior art.

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2. The rejection of claims 12, 52, 100, and 108 under 35 USC §103(a) as being unpatentable over Wilbur (US 2,338,749) in view of Reed et al. (US 4,054,697), and further in view of the admitted prior art and Kovac (US 3,819,467).

ARGUMENTS

1. Claims 1, 9-11, 14-18-11, 14-18, 41-51, 54-58, 66, 81, 95-99, and 101-107 under 35 U.S.C. §103(a) are rejected as unpatentable over Wilbur, U.S. Patent No. 2,338,749 in view of Reed, et al., U.S. Patent No. 4,054,697, and further in view of the admitted prior art.

To establish a *prima facie* case of obviousness under 35 USC §103(a), the Examiner must provide a reference or combination of references, that teach or suggest all of the limitations of the invention as claimed. Appellant submits that the references cited by the Examiner do not teach or suggest all of the claimed limitations and therefore fail to support a *prima facie* case of obviousness under 35 USC §103(a). Specifically, the references fail to teach or suggest a material that is activated by the application of a tensile force to the material.

Appellant submits that the Reed reference teaches that the material may be adhered to a surface by the application of sufficient pressure by means of a hand or a roller to deform the particles on the surface of the adhesive to such an extent as to being the adhesive and the surface into fuller contact. Col. 1 lines 56-59. Reed also provides, col. 3 lines 25-27, that the application of firm hand pressure on the decorative surface of the material of example 1 adhered the material to the surface. The Examiner contends that these portions of the reference read on the activation of the material by a tensile force and presume to shift the burden of disproving this contention to Appellant.

The teaching of Reed relate to a compressive force application. Nothing in the reference teaches or suggests the application of a tensile force to the material. The contention of the Examiner is unsupported and the effort to shift the burden of evidence to the Appellant is without merit.

The Wilbur reference teaches the activation of the wrapper by pressing the ends together, Reed teaches activation by applying pressure with a hand or a roller. Neither of these teaching suggests the application of a tensile force to the material. The Examiner

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has not established a *prima facie* case of obviousness and the rejection of the claims under 35 USC §103(a) should be overturned.

2. Claims 12, 52, 100, and 108 under 35 USC §103(a) are rejected as being unpatentable over Wilbur (US 2,338,749) in view of Reed et al. (US 4,054,697), and further in view of the admitted prior art and Kovac (US 3,819,467). Each of these claims depends from either claim 41 or claim 95. The addition of the Kovac reference fails to cure the deficiencies of the Wilbur – Reed combination with regard to the establishment of a *prima facie* case of obviousness. Therefore this rejection should also be overturned.

SUMMARY

In view of all of the above, it is respectfully submitted that as the Examiner has failed to properly establish a *prima facie* case of obviousness under 35 USC §103(a), the rejection of the pending claims should be overturned.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY



Signature

David K. Mattheis

Typed or printed name

Registration No. 48,683

(513) 634-9359

Date: 4/13/06

Customer No. 27752

(AppealBrief.doc)
Revised 11/18/2005

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CLAIMS APPENDIX

1. (Rejected) A storage wrap material according to Claim 81, wherein the adhesion peel force after activation by a user is sufficient to form a continuous seal against a target surface.

Claims 2-8 (Canceled)

9. (Rejected) The storage wrap material of Claim 1, wherein said active side exhibits an adhesion peel force of at least about 1 ounce per inch width after activation by a user.

10. (Rejected) The storage wrap material of Claim 1, wherein said active side may be selectively activated in discrete regions by a user.

11. (Rejected) The storage wrap material of Claim 1, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.

12. (Rejected) The storage wrap material of Claim 1, wherein both said first side and said second side comprise active sides of said material.

Claim 13 (Canceled)

14. (Rejected) The storage wrap material of Claim 1, wherein said active side includes a pressure sensitive adhesive.

15. (Rejected) The storage wrap material of Claim 1, wherein said sheet of material comprises a polymeric film material.

16. (Rejected) The storage wrap material of Claim 15, wherein said polymeric film material is selected from the group consisting of: a substantially translucent polymeric film material and a substantially transparent polymeric film material.

17. (Rejected) The storage wrap material of Claim 1, wherein said active side comprises a plurality of three dimensional non-adherent protrusions extending outwardly from said sheet of material and a pressure sensitive adhesive surrounding said non-adherent

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protrusions, said adhesive having a thickness less than the height of said non-adherent protrusions before activation.

18. (Rejected) The storage wrap material of Claim 1, wherein said sheet of material is clingless and exhibits no adhesion peel force prior to activation by a user.

Claims 19-40 (Canceled)

41. (Rejected) A storage wrap material comprising: a sheet of non-porous material having a first side and a second side, said first side comprising an active side exhibiting an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to activation by a user, said active side further comprising an adhesive disposed continuously thereon, wherein said sheet of material is linerless, such that activation of said active side requires no removal of components of said sheet of material, wherein said active side is activatable by a tensile force, said sheet of material being sufficiently flexible to conform readily to a desired surface and having sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause said sheet of material to break contact with such a desired surface.

Claims 42-46 (Canceled)

47. (Rejected) The storage wrap of Claim 41, wherein said tensile force is required to be at least about 0.80 pounds per inch of strip width to activate said active side.

48. (Rejected) The storage wrap of Claim 41, wherein said tensile force is exerted in a direction substantially parallel to said sheet of material.

49. (Rejected) The storage wrap material of Claim 41, wherein said active side exhibits an adhesion peel force of at least about 1 ounce per inch width after activation by a user.

50. (Rejected) The storage wrap material of Claim 41, wherein said active side may be selectively activated in discrete regions by a user.

51. (Rejected) The storage wrap material of Claim 41, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.

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52. (Rejected) The storage wrap material of Claim 41, wherein both said first side and said second side comprise active sides of said material.

Claim 53 (Canceled)

54. (Rejected) The storage wrap material of Claim 41, wherein said active side includes a pressure sensitive adhesive.

55. (Rejected) The storage wrap of Claim 41, wherein said sheet of material comprises a polymeric film material.

56. (Rejected) The storage wrap material of Claim 55, wherein said polymeric film material is selected from the group consisting of: a substantially translucent polymeric film material and a substantially transparent polymeric film material.

57. (Rejected) The storage wrap material of Claim 41, wherein said active side comprises a plurality of three dimensional non-adherent protrusions extending outwardly from said sheet of material and a pressure sensitive adhesive surrounding said non-adherent protrusions, said adhesive having a thickness less than the height of said non-adherent protrusions before activation.

58. (Rejected) The storage wrap material of Claim 41, wherein said sheet of material is clingless and exhibits no adhesion peel force prior to activation by a user.

Claims 59-65 (Canceled)

66. (Rejected) A storage wrap material of Claim 41, wherein said active side when activated forms a bond with a target surface, said bond being selected from one or more groups consisting of: a discontinuous bond, a permanent bond, a refastenable bond, a resealable bond and a releasable bond.

Claims 67-80 (Canceled)

81. (Rejected) A storage wrap material according to Claim 41 wherein the adhesion peel force after activation by a user is sufficient to form a seal against a target surface.

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Claims 82-94 (Canceled)

95. (Rejected) A storage wrap material comprising a sheet of non-porous material having a first side and a second side, substantially all of said first side comprising an active side, said active side comprising an adhesive disposed continuously thereon, said active side exhibiting an adhesion peel force after activation by a user that is greater than an adhesion peel force exhibited prior to said activation by a user, wherein said active side is activatable by a tensile force, wherein said sheet of material is linerless, such that activation of said active side requires no removal of components of said sheet of material, said sheet being sufficiently flexible to conform readily to a desired surface and having sufficiently small resiliency that it does not exert undue restorative forces that would tend to cause said sheet of material to break contact with such a desired surface.

96. (Canceled)

97. (Rejected) The storage wrap material of Claim 95, wherein said active side may be selectively activated in discrete regions by a user.

98. (Rejected) The storage wrap material of Claim 95, wherein said active side may be activated by compression against a target surface.

99. (Rejected) The storage wrap material of Claim 95, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.

100. (Rejected) The storage wrap material of Claim 95, wherein both said first side and said second side comprise active sides of said material.

101. (Rejected) A storage wrap material according to Claim 95, wherein said active side when activated forms a bond with a target surface, said bond being selected from one or more of the group consisting of: a discontinuous bond, a permanent bond, a refastenable bond, a resealable bond and a releasable bond.

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102. (Rejected) A storage wrap material according to Claim 95, wherein the adhesion peel force after activation by a user is sufficient to form a seal against a target surface.

103. (Rejected) A storage wrap material according to Claim 102, wherein the adhesion peel force after activation by a user is sufficient to form a continuous seal against a target surface.

Claim 104 (Canceled)

105. (Rejected) The storage wrap material of Claim 103, wherein said active may be selectively activated in discrete regions by a user.

106. (Rejected) The storage wrap material of Claim 103, wherein said active side may be activated by compression against a target surface.

107. (Rejected) The storage wrap material of Claim 103, wherein said adhesion peel force after activation is sufficient to form a barrier seal against a target surface, said seal exhibiting barrier properties at least as great as those of said sheet of material.

108. (Rejected) The storage wrap material of Claim 103, wherein both said first side and said second side comprise active sides of said material.

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EVIDENCE APPENDIX

No evidence is being presented.

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RELATED PROCEEDINGS APPENDIX

There are no known appeals or interferences.

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